IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

CRP.No. 5 of 2004(B)

OPELE.103/2002 of ADDL.D.C., ALAPPUZHA.
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REVN. PETITIONER: RESPONDENT:

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE, NANGIARKULANGARA, KAYAMKULAM,
REPRESENTED BY MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS: PETITIONER:

P.T.SIMON,
PLAVILAYIL VEEDU, PANAYIL MURI, PALAMEL VILLAGE.

BY ADV. SRI.PHILIP M.VARUGHESE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/12/2007, ALONG WITH CRP NOS. 370 & 530 OF 2004 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NOs. 5, 370
& 530 OF 2004

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Dated this the 17th day of December, 2007.

O R D E R

CRP 5/04 is preferred against the award of the Addl. District Judge, Alappuzha in O.P.(EA)103/02, CRP 370/04 is preferred against O.P.(EA)59/02 and CRP 530/04 is preferred against O.P.(EA)128/02. In O.P.(EA)103/02 the Court below has awarded an additional compensation of Rs.33,900/- and in O.P.(EA)59/02 the additional compensation awarded is Rs.11,798/- and in O.P.(EA)128/02 the additional compensation awarded is Rs.19,603/-.

2. In all these cases a perusal of the award would reveal that the Court has applied the dictum laid down by this Court in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542)*** and fixed the annuity factor at 5% and awarded compensation. The learned counsel for the revision petitioner in all these cases submitted that in ***K.S.E.B. v. Livisha***

(2007 (3) KLT page 1) the Apex Court has held that each case has to be decided on the facts and circumstances of that case and has also given the guidelines which is extracted as follows.

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

3. So, in the light of the enunciated principles laid down in the above said decision the matter requires additional evidence both documentary and oral and therefore I am

inclined to interfere with the award passed by the Court below. Therefore awards under challenge are set aside and the matter is remitted back to the trial court for considering afresh after permitting both sides to adduce evidence in support of their respective contentions and in the light of the enunciated principles reported in ***2007 (3) KLT page 1.*** Parties are directed to appear before the Court below on 25.1.2008.

M.N. KRISHNAN, JUDGE.

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